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6

7 Attorneys for Defendants  
Robert A. Siravo and Thomas E. Swedberg

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 NATIONAL CREDIT UNION  
ADMINISTRATION BOARD AS  
11 LIQUIDATING AGENT FOR WESTERN  
CORPORATE FEDERAL CREDIT UNION,

12 Plaintiff,

13 vs.  
14

15 ROBERT A. SIRAVO, TODD M. LANE,  
ROBERT J. BURRELL, THOMAS E.  
16 SWEDBERG, and TIMOTHY T. SIDLEY,

17 Defendants.

18 ROBERT A. SIRAVO and THOMAS E.  
SWEDBERG,

19 Counterclaimants,  
20

21 vs.  
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23 NATIONAL CREDIT UNION  
ADMINISTRATION BOARD AS  
LIQUIDATING AGENT FOR WESTERN  
CORPORATE FEDERAL CREDIT UNION,

24 Counterclaim Defendant.  
25  
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CASE NO. CV10-01597 GW  
(MANx)

**INITIAL DISCLOSURES OF  
DEFENDANTS ROBERT A.  
SIRAVO AND THOMAS E.  
SWEDBERG PURSUANT TO  
FED. R. CIV. PRO. 26(A)**

**Judge: Hon. George Wu**

Pursuant to Federal Rule of Civil Procedure 26(a)(1), Defendants and counterclaimants Robert A. Siravo and Thomas E. Swedberg (collectively “Defendants”) provide the following initial disclosures:

**I. GENERAL STATEMENTS**

1. Defendants investigation and discovery in this action is continuing, and these disclosures reflect only the current status of their investigation and discovery. Defendants reserve the right to supplement or amend their disclosures as additional information becomes known to them through discovery or other means.

2. Defendants construe the requirements of Rule 26(a) as not requiring the production of information protected by the attorney-client privilege, the attorney work product doctrine, or any applicable privileges. Defendants intend to and hereby assert any such privileges, and any disclosure of such information in these disclosures is inadvertent and does not constitute a waiver of such privileges.

**II. DISCLOSURES OF WITNESSES PURSUANT TO RULE 26(a)(1)(A)(i)**

Pursuant to Fed. R. Civ. Pro. 26(a)(1)(A), Defendants provide the name and, if known, address and telephone number of each individual likely to have discoverable information that Defendants may use to support their claims and defenses along with the subjects of the information in each instance.

Robert A. Siravo  
c/o Richard Drooyan  
Munger, Tolles & Olson LLP  
355 South Grand Avenue  
Los Angeles, CA 90071  
(213) 683-9136

Has discoverable information about the federal credit union system; his activities as CEO/President of WesCorp; WesCorp’s investments, investment strategies, and investment policies and procedures; WesCorp’s budgets and credit reviews; information provided to WesCorp’s Board of Directors, Board committees, and the ALCO and the ALSC about WesCorp’s investments, investment strategies, and investment policies and procedures; the activities of the ALCO and ALSC; communications with the NCUA, the negotiation of his employment agreement and his Supplemental Executive Retention Plan

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Thomas A. Swedberg  
c/o Richard Drooyan  
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Todd M. Lane  
c/o Kenneth Fitzgerald  
Chapin Fitzgerald Sullivan & Bottini  
LLP  
550 West C Street, Suite 2000  
San Diego, CA 92101  
(619) 241-4810

Robert J. Burrell  
c/o Bruce Ericson  
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(415) 983-1560

Timothy T. Sidley  
c/o Kent B. Gross  
Orrick Herrington & Sutcliffe LLP  
Los Angeles, CA 90017  
(213) 629-2020

("SERP"); the amendments to his SERP and the Executive SERP; disclosures to and communications with Board members regarding the amendments to these plans; the payments he received under his SERP; and the Early Payout Agreement with Todd Lane; Policy 21, and WesCorp's insurance policies.

Has discoverable information about his activities as an employee of WesCorp; the development of the Executive SERP; the amendments to the Executive SERP and Robert Siravo's SERP; disclosures to and communications with Board members regarding the amendments to these plans; the payments he received under his SERP; and the Early Payout Agreement with Todd Lane.

May have discoverable information about WesCorp's investments, investment strategies, and investment policies and procedures; information provided to WesCorp's Board of Directors, Board committees, and the ALCO and the ALSC about WesCorp's investments, investment strategies, and investment policies and procedures; the activities of the ALCO and the ALSC; and his Early Payout Agreement.

May have discoverable information about WesCorp's investments, investment strategies, and investment policies and procedures; information provided to WesCorp's Board of Directors, Board committees, and the ALCO and the ALSC about WesCorp's investments, investment strategies, and investment policies and procedures; the activities of the ALCO and the ALSC; and the activities of the Investment Department.

May have discoverable information about WesCorp's credits analysis and credit approvals; WesCorp's investments, investment strategies, and investment policies and procedures; information provided to WesCorp's Board of Directors, Board committees, and the ALCO and the ALSC about WesCorp's investments, investment strategies, and investment policies and

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Robert H. Harvey, Jr.  
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William Cheney  
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Gordon Dames  
c/o Bruce Ericson  
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James P. Jordan  
c/o Bruce Ericson  
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procedures; the activities of the ALCO and the ALSC; and the activities of Investment Credit Services.

May have discoverable information about information provided to WesCorp's Board of Directors, Board committees, and the ALCO and the ALSC; the activities of the ALCO and the ALSC; WesCorp's investments, investment strategies, and investment policies and procedures; WesCorp's budgets and credit policies; the amendments of Siravo's SERP and the Executives' SERP; communications with Swedberg regarding these amendments; the Board's approval of these amendments; and Lane's Early Payout Agreement.

May have discoverable information about information provided to WesCorp's Board of Directors, Board committees, and the ALCO and the ALSC; the activities of the ALCO and the ALSC; WesCorp's investments, investment strategies, and investment policies and procedures; WesCorp's budgets and credit policies; and Lane's Early Payout Agreement.

May have discoverable information about information provided to WesCorp's Board of Directors, Board committees, and the ALCO and the ALSC; the activities of the ALCO and the ALSC; WesCorp's investments, investment strategies, and investment policies and procedures; WesCorp's budgets and credit policies; the amendments of Siravo's SERP and the Executives' SERP; and the Board's approval of these amendments.

May have discoverable information about information provided to WesCorp's Board of Directors, Board committees, and the ALCO and the ALSC; the activities of the ALCO and the ALSC; WesCorp's investments, investment strategies, and investment policies and procedures; WesCorp's budgets and credit policies; the amendments of Siravo's SERP and the Executives' SERP; the Board's approval

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2  
3 Timothy Kramer  
4 c/o Bruce Ericson  
5 Pillsbury Winthrop Shaw Pitman LLP  
6 50 Freemont Street  
7 San Francisco, CA 94105  
8 (415) 983-1560

of these amendments; and Lane's Early Payout Agreement.

May have discoverable information about information provided to WesCorp's Board of Directors, Board committees, and the ALCO and the ALSC; the activities of the ALCO and the ALSC; WesCorp's investments, investment strategies, and investment policies and procedures; WesCorp's budgets and credit policies; the amendments of Siravo's SERP and the Executives' SERP; the Board's approval of these amendments; and Lane's Early Payout Agreement.

9  
10 Robert J. Lentz  
11 c/o Bruce Ericson  
12 Pillsbury Winthrop Shaw Pitman LLP  
13 50 Freemont Street  
14 San Francisco, CA 94105  
15 (415) 983-1560

May have discoverable information about information provided to WesCorp's Board of Directors, Board committees, and the ALCO and the ALSC; the activities of the ALCO and the ALSC; WesCorp's investments, investment strategies, and investment policies and procedures; WesCorp's budgets and credit policies; the amendments of Siravo's SERP and the Executives' SERP; the Board's approval of these amendments; and Lane's Early Payout Agreement.

16  
17 John M. Merlo  
18 c/o Bruce Ericson  
19 Pillsbury Winthrop Shaw Pitman LLP  
20 50 Freemont Street  
21 San Francisco, CA 94105  
22 (415) 983-1560

May have discoverable information about information provided to WesCorp's Board of Directors, Board committees, and the ALCO and the ALSC; the activities of the ALCO and the ALSC; WesCorp's investments, investment strategies, and investment policies and procedures; WesCorp's budgets and credit policies; the amendments of Siravo's SERP and the Executives' SERP; communications with Swedberg regarding these amendments, the Board's approval of these amendments; and Lane's Early Payout Agreement.

23  
24 Warren Nakamura  
25 c/o Bruce Ericson  
26 Pillsbury Winthrop Shaw Pitman LLP  
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28 San Francisco, CA 94105  
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May have discoverable information about information provided to WesCorp's Board of Directors, Board committees, and the ALCO and the ALSC; the activities of the ALCO and the ALSC; WesCorp's investments, investment strategies, and investment policies and procedures; WesCorp's



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David Roughton  
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budgets and credit policies; the  
amendments of Siravo's SERP and the  
Executives' SERP; the Board's approval  
of these amendments; and Lane's Early  
Payout Agreement.

May have discoverable information  
about information provided to  
WesCorp's Board of Directors, Board  
committees, and the ALCO and the  
ALSC; the activities of the ALCO and  
the ALSC; WesCorp's investments,  
investment strategies, and investment  
policies and procedures; WesCorp's  
budgets and credit policies; the  
amendments of Siravo's SERP and the  
Executives' SERP; the Board's approval  
of these amendments; and Lane's Early  
Payout Agreement.

May have discoverable information  
about information provided to  
WesCorp's Board of Directors, Board  
committees, and the ALCO and the  
ALSC; the activities of the ALCO and  
the ALSC; WesCorp's investments,  
investment strategies, and investment  
policies and procedures; WesCorp's  
budgets and credit policies; the  
amendments of Siravo's SERP and the  
Executives' SERP; the Board's approval  
of these amendments; and Lane's Early  
Payout Agreement.

May have discoverable information  
about information provided to  
WesCorp's Board of Directors, Board  
committees, and the ALCO and the  
ALSC; the activities of the ALCO and  
the ALSC; WesCorp's investments,  
investment strategies, and investment  
policies and procedures; WesCorp's  
budgets and credit policies; the  
amendments of Siravo's SERP and the  
Executives' SERP; the Board's approval  
of these amendments; and Lane's Early  
Payout Agreement.

May have discoverable information  
about the activities of the Supervisory  
Committee; information provided to the  
Supervisory Committee and WesCorp's  
Board of Directors about WesCorp's  
investments, investment strategies, and

1		investment policies and procedures.
2	Jim Hayes	May have discoverable information
3	Address and telephone number unknown	about information provided to
4		WesCorp's Board of Directors, Board
5		committees, and the ALCO and the
6		ALSC; the activities of the ALCO and
7		the ALSC; WesCorp's investments,
		investment strategies, and investment
		policies and procedures; and
		communications with the NCUA
		regarding WesCorp's investments and
		investment strategies.
8	David Trinder	May have discoverable information
9	Address and telephone number unknown	about information provided to
10		WesCorp's Board of Directors, Board
11		committees, and the ALCO and the
12		ALSC; the activities of the ALCO and
		the ALSC; and WesCorp's investments,
		investment strategies, and investment
		policies and procedures.
12	Jeff Hamilton	May have discoverable information
13	Address and telephone number unknown	about information provided to
14		WesCorp's Board of Directors, Board
15		committees, and the ALCO and the
16		ALSC; the activities of the ALCO and
		the ALSC; and WesCorp's investments,
		investment strategies, and investment
		policies and procedures.
17	Deitmar Huesch	May have discoverable information
18	Address and telephone number unknown	about information provided to
19		WesCorp's Board of Directors, Board
20		committees, and the ALCO and the
21		ALSC; the activities of the ALCO and
		the ALSC; and WesCorp's investments,
		investment strategies, and investment
		policies and procedures.
22	James E Burbott	May have discoverable information
23	Upland, CA	about information provided to
24	telephone number unknown	WesCorp's Board of Directors, Board
25		committees, and the ALCO and the
26		ALSC; the activities of the ALCO and
		the ALSC; and WesCorp's investments,
		investment strategies, and investment
		policies and procedures.
27	Bill Eberhardt	May have discoverable information
28	Address and telephone number unknown	about WesCorp's credit analysis and
		approval of MBS investments,

1		investment strategy, investment policies
2		and procedures, and WesCorp's credit
3	Sheri Ledbetter	risk management.
4	Address and telephone number	May have discoverable information
5	unknown	about about the amendments of Siravo's
6		SERP and the Executives' SERP; the
7		Board's approval of resolutions
8		regarding these amendments; and
9		corporate communications.
10	Marla J. Aspinwall	May have discoverable information
11	Loeb & Loeb	about the amendments of Siravo's SERP
12	10100 Santa Monica Blvd., Suite 2200	and the Executives' SERP; the Board's
13	Los Angeles, CA 90067	approval of these amendments.
14	(310) 282-2000	
15	Barrie French	May have discoverable information
16	Address and telephone number unknown	about WesCorp's credit analysis and
17		approval of MBS investments,
18		investment strategy, investment policies
19		and procedures, and WesCorp's credit
20		risk management.
21	Kathy Gensler	May have discoverable information
22	Address and telephone number unknown	about WesCorp's credit analysis and
23		approval of MBS investments,
24		investment strategy, investment policies
25		and procedures, and WesCorp's credit
26		risk management.
27	Kent Buckham	May have discoverable information
28	Address and telephone number unknown	about the NCUA's admissions; the
		NCUA's supervision of corporate credit
		unions and WesCorp, and the NCUA's
		knowledge and approval of MBS
		investments.
	Bruce Bakke	May have discoverable information
	Address and telephone number unknown	about the NCUA's admissions; the
		NCUA's supervision of corporate credit
		unions and WesCorp, and the NCUA's
		knowledge and approval of MBS
		investments.
	Steven Sherrod	May have discoverable information
	Address and telephone number unknown	about the NCUA's credit regulations,
		and its knowledge and examinations of
		WesCorp's investments, investment
		strategies, and investment policies and
		procedures.
	Joe Shoshoo	May have discoverable information
	Address and telephone number unknown	about the NCUA's knowledge and
		examinations of WesCorp's investments,



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1		admissions, the NCUA's knowledge and
2		examinations of WesCorp's investments,
3		investment strategies, and investment
4	Owen Cole	policies and procedures.
5	Address and telephone number unknown	May have discoverable information
6		about the NCUA's knowledge and
7		approval of MBS investments by
8	Bob Fenner	corporate credit unions; the NCUA's
9	Address and telephone number unknown	admissions; the NCUA's knowledge and
10		examinations of WesCorp's investments,
11		investment strategies, and investment
12		policies and procedures.
13	Rand Yamasaki	May have discoverable information
14	Address and telephone number unknown	about Todd Lane's Early Payout
15		Agreement.
16	Michelle Esser	May have discoverable information
17	Address and telephone number unknown	about Tom Swedberg's roles and
18		responsibilities at WesCorp.
19	Max Peebles	May have discoverable information
20	National Credit Union Administration	about Defendants' requests for
21	4807 Spicewood Springs Road, Suite	indemnification and the NCUA's failure
22	5100	to advance defense costs.
23	Austin, TX 78759	
24	(512) 731-7900	
25	Carol Cole	May have discoverable information
26	CUNA Mutual Group	about WesCorp's failure to provide
27	591 Mineral Point Road	adequate insurance for its officers and
28	Madison, WI 53701	employees.
	(608) 238-5851 ext 7713	

In addition to the persons listed above, additional persons associated with, the NCUA, WesCorp, Western Bridge Corporate Federal Credit Union, other corporate credit unions, other financial institutions, underwriters and issuers of Mortgage Backed Securities, and advisors to these financial institutions may have information regarding subjects relevant to this action. Defendants reserve the right

1 to supplement these initial disclosures at a later date, in the event that additional  
2 information and materials concerning these and other witnesses who may have, or  
3 are likely to have, information within the meaning of Fed. R. Civ. P. 26(a)(1)(A),  
4 are ascertained, discovered or confirmed.

5 **III. DISCLOSURE OF DOCUMENTS PURSUANT TO RULE**  
6 **26(a)(1)(A)(ii)**

7 The categories of documents, electronically stored information, and  
8 tangible things that are in Defendants' possession, custody, or control that  
9 Defendants may use to support their claims or defenses, not solely for  
10 impeachment, are as follows:

- 11 1. Minutes and draft minutes of WesCorp Board of Directors  
12 meetings, Executive Sessions, and Committees.
- 13 2. PowerPoint presentations and memoranda regarding the  
14 Supplemental Executive Retention Plans for Siravo and the  
15 WesCorp executives and proposed changes to the SERPs.
- 16 3. The Executive Retention Program, President/CEO Retention  
17 Program and amendments thereto.
- 18 4. Draft resolutions and resolutions of the Board of Directors  
19 pertaining to changes in the SERPs.
- 20 5. The Defined Benefit Plan.
- 21 6. Common Questions regarding WesCorp employee benefits
- 22 7. Defendants' Employment Agreements and offers of  
23 employment
- 24 8. Analysis of the SERP benefits
- 25 9. Invoices for legal services
- 26 10. Communications with the NCUA regarding indemnification.
- 27 11. WesCorp's policies, including Policy 21.
- 28 12. Model Business Corporation Act
13. WesCorp's insurance policies and communications with the  
insurance carrier regarding coverage.
14. PowerPoint presentations regarding WesCorp's business,  
strategic planning, financial statements, training, and budgets.

